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23 FEBRUARY 1982

DOCUMENT 1-1013/81

REPORT

DRAWN UP ON BEHALF OF THE Committee on Youth,  
Culture, Education, Information and Sport

on radio and television broadcasting in the  
European Community

Rapporteur: Mr W. HAHN



At its sitting of 19 September 1980, the European Parliament referred to the Committee on Youth, Culture, Education, Information and Sport as the committee responsible and to the Committee on Budgets, the Political Affairs Committee and the Legal Affairs Committee for their opinion, the motion for a resolution tabled by Mr PEDINI, Mr HAHN and others on 'radio and television broadcasting in the European Community' (Doc. 1-409/80), and the motion for a resolution tabled by Mr SCHINZEL and others on 'the threat to diversity of opinion posed by commercialisation of new media' (Doc. 1-422/80). The Committee on Budgets subsequently communicated its decision not to draft an opinion at this stage.

The committee decided that, although the subjects of the two motions for resolution overlapped in certain respects which might require cross-references, they differed sufficiently to warrant the preparation of two separate reports.

At its meeting of 22 October 1980, the Committee on Youth, Culture, Education, Information and Sport appointed Mr HAHN rapporteur on 'radio and television broadcasting in the European Community'.

The committee considered the motion for a resolution at its meetings of 23-24 September 1981 and 10-11 November 1981. At the latter meeting, the motion for a resolution and the explanatory statement were adopted unanimously with two abstentions.

The following took part in the vote:

Mr Pedini, chairman; Mr Hahn, vice-chairman and rapporteur; Mr Arfe; Mr Beyer De Ryke; Mr Bocklet (representing Mrs Gaiotti De Biase); Mr Brok (representing Mr Del Duca); Miss Brookes; Mrs Dupont (representing Mrs Buchan); Mr Fajardie; Mr Hutton; Mr Marck; Mrs Pruvot; Mr Schall; Mr Schinzel (representing Mr Schwencke); Mr Sieglerschmidt (representing Mr Pattison); Mr Van Minnen (representing Mrs Viehoff); Mr Wedekind and Mrs Weiss

The opinions of the Political Affairs Committee and the Legal Affairs Committee are attached.

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The Committee on Youth, Culture, Education Information and Sport hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on radio and television broadcasting in the European Community

The European Parliament,

- having regard to the motion for a resolution by Mr Pedini, Mr Hahn and others of 18.9.1980 'on radio and television broadcasting in the European Community' (Doc. 1-409/80), the motion for a resolution by Mr Schinzel and others of 19.9.80 on 'the threat to diversity of opinion posed by commercialisation of the new media' (Doc. 1-422/80), and the European Parliament's resolution of 16.1.81 on the Schall report on 'the information policy of the European Community, of the Commission of the European Communities and of the European Parliament' (Doc. 1-596/80),
- having regard to the report of the Committee on Youth, Culture, Education, Information and Sport and the opinions of the Political Affairs Committee and the Legal Affairs Committee (Doc. 1-1013/81);
- convinced of the need for all citizens of the Member States to receive authentic information on Community policy and thus to be given a share in the political responsibility,
- whereas adequate and expert information is essential to the development of a sense of common responsibility and willingness to take joint political action,
- whereas radio and television are today the chief media for informing and shaping public opinion,
- whereas reporting of European Community problems in the past has been inadequate and in many cases negative,
- having regard to the public opinion polls recently conducted among the citizens of Europe, which show an alarming disappointment with the development of the Community and, at the same time, a lack of information as to what is actually going on,
- having regard to the unsatisfactory results of the latest European Council summit with regard to the solution of existing urgent problems,
- whereas the introduction of transmission by satellite, which may be expected in the years ahead as a result of new technologies, and the different cable systems, will vastly increase broadcasting capacity via the additional channels and make it possible to reach all regions of Europe simultaneously,

- whereas the anticipated media revolution in the Member States is causing increasing discussion of the reorganization of television broadcasting and whereas a large number of different proposals have been made on the use of the new facilities and in some cases far-reaching decisions are about to be taken,
  - concerned that if the European Community and its institutions do not participate in this decision-making process, developments might take place which would not be in the interests of the Community,
  - convinced that the timely intervention of the European Community in the decision-making process will help to achieve an appropriate solution.
1. Calls on the Commission to submit within six months a report on the media giving assistance to the Community institutions in preparing the decisions to be taken by them in this field and containing in particular the information mentioned in paragraph 8 of the explanatory statement and, on the basis of this report, to create the political and legal basis for the realisation of a European television channel;
  2. Regards it as essential for the European Community to encourage the national television companies and the European Broadcasting Union in their plans to establish a European television channel and for it to take part in the related discussions and decisions;
  3. Considers close cooperation with the European Broadcasting Union to be imperative;
  4. Calls on the authorities in the Member States to make the fifth channels of the national satellites available for a European channel;
  5. Proposes that the European television channel should provide a full range of programmes, covering news, politics, education, culture, entertainment and sport and that it should be European in origin, transmission range, target audience and subject matter;
  6. Expects that equal weight will be given to all regions of the European Community to increase European awareness and recommends that account be taken of the essence of European culture, namely diversity in unity; and that initiatives will be undertaken to ensure the involvement of people in the regions concerned and their organisations in the preparation of appropriate programmes;
  7. Considers that outline rules should be drawn up on European radio and television broadcasting, inter alia with a view to protecting young people and establishing a code of practice for advertising at Community level;
  8. Urges the television services of the European Parliament and the European Commission to make easily available broadcasting material on the activities of the European Community for distribution via Eurovision;
  9. Instructs its President to forward this resolution to the Council and Commission of the European Community.

EXPLANATORY STATEMENT

1. On 18.9.1980 the EPP Group tabled a motion for a resolution on 'radio and television broadcasting in the European Community' (Doc. 1-409/80) and on 16 January 1981 the European Parliament adopted the Schall report (Doc. 1-596/80) on 'The information policy of the European Community, of the Commission of the European Communities and of the European Parliament'. These documents call for information on the Community to be improved by greater use of the media. The resolution of 18.9.1980 basically calls for the establishment of a European television company or the creation of a European television channel.

2. The stimulus for this demand came from outside:

(a) New technology is bringing about a fundamental change in our whole media system. From about 1985 each Member State that so wishes will have a television satellite in orbit. Test satellites can be expected to be in operation by 1983. These satellites will contain five channels, each satellite covering an area of Europe extending far beyond the national frontiers of the Member States.

At the same time there will be rapid expansion of cable technology, which will be essential for receiving satellite television pictures as long as the majority of receivers do not have a dish aerial. The use of glass fibres will mean that a virtually unlimited number of programmes can be transmitted and received.

Satellite and earth-based systems will expand and be used in combined applications. It will then be possible to make full use of the existing efficient Eurovision cable system.

(b) The 1977 broadcasting conference in Geneva

- promised each European country its own satellite in orbit;
- made efforts to fix national borders as the compulsory limits for satellite transmissions. This move is attributable to Eastern European fears about free movement of the media and to the concern among the Western countries about unlimited competition as a result of advertising.

In fact only the large countries will be able to launch their own satellites, but their transmissions will be received in large areas of the neighbouring countries (overspill). Thus, the French satellite covers virtually all central Europe. The limiting of transmission areas to national boundaries has therefore been overtaken by technical progress.

(c) In Europe, there is increasing discussion about the effects and use of the new technical media facilities. The proposals or plans can be divided into the following four groups:

- commercial uses (Radio Luxembourg and the Federal Association of German Newspaper Publishers, Telsat Basel in conjunction with a British commercial group).
- the Franco-German joint channel transmitted via the French satellite.
- a European channel which would be transmitted as an additional channel by the national broadcasting companies European Broadcasting Union, Radio Italiana, Südwestfunk Baden-Baden and the ZDF in the Federal Republic of Germany).
- an autonomous European television company.

(d) It is clear that:

- television satellites will lead to a reorganization of the media in Europe;
- the new technical facilities will break down the boundaries of the national television networks and enforce the creation of wide-ranging transmission areas;
- the television companies or governments responsible do not yet know how to make full use of their fifth channel;
- the concept of a European television channel or alternatively the commercial operation of the free channel is under discussion and a decision is imminent.

Information is a decisive, perhaps the most decisive factor in European unification.

It is essentially true that:

(a) European unification will only be achieved if Europeans want it.

Europeans will only want it if there is such a thing as a European identity. A European identity will only develop if Europeans are adequately informed. At present, information via the mass media is controlled at national level. The vast majority of journalists do not 'think European' because their reporting role is defined in national or regional terms. Hence the predominance of negative reporting. Therefore, if European unification is to be encouraged, Europe must penetrate the media.

(b) At the same time of the direct elections to the European Parliament, a sound basis was created for European reporting. There was cooperation between the national media and, following the elections, the European public placed high hopes in European unification.



However, the public opinion polls conducted in 1980 and 1981 reveal a growing disillusionment, not to say disappointment, among the citizens of Europe. It is indisputable that inadequate and frequently unsympathetic reporting of the work of the European Parliament has contributed to this undermining of the commitment to European unification among the public at large.

- (c) The Treaties of Rome relate to the Common Market and are limited to the economic and agricultural fields and their repercussions on the world at work. The far-reaching process of economic, agricultural and technical integration set in motion by the treaties is undeniable. However, both the complexity of the resulting technical mechanisms and the concentration on specific aspects have impeded the emergence of a European awareness. The concept of 'Europe' had definite negative connotations in the sense of an uncontrolled and frequently absurd bureaucratic machine.

In these circumstances it is essential to restore to the concept of 'Europe' its full meaning and original cultural dimension. The new President of the Commission, Gaston Thorn, therefore declared on 10 March 1981: 'Europe's future is, of course, not only a question of economics..... this political community will not be created without a common political will, which could be propagated by the European Parliament. I use the word 'propagated' advisedly since I am not under any illusions: without action by the Member States, without the involvement of the citizens of Europe, without cultural projects or an information policy, these high-flown ambitions will probably be only short-lived'.

To avoid any misunderstandings, it must be said at once that unity, in its diversity of forms, which must be preserved, is the essence of European culture.

- 4. The logical consequence of this analysis is that a new dimension must be added to European unification to enable Europeans to identify with European union. The instruments which serve to shape public opinion today are the media. Of these, television, as an audio-visual means of communication, is the most important.

- (a) The new technology and the discussion it has sparked off as to the future reorganization of the media mean that we are now in a decision-making phase, during which the course for the future will be set. Commercial interests, media experts, political groups of different persuasions are currently evolving their plans, representing their interests and exploiting the new facilities. One cannot ignore the suggestion that what is needed to match the scope

offered by future technical facilities is in fact a European television company or at least a European television channel. In the circumstances, the European Community should not stand aside and leave the field to others: the European Parliament, the Commission and the Council must become involved in the discussions immediately. They must claim the right to participate in decisions that will determine the future structure of the media and of television in particular. The European Community has the task of combining and coordinating proposals which have so far been totally lacking in coordination. This does not mean placing initiatives in this area in a State straitjacket, but it is essential to create a framework within which the objective of European union can be taken into account.

- (b) Information and economics are closely interrelated - an obvious example being advertising - and consequently the involvement of the media in European unification clearly adds a new dimension within the context of the treaties of Rome. Economic exchanges, understanding of social processes, freedom of movement and trade, vocational training and many other activities are inconceivable without information. Indeed, for some time information itself has been an important branch of the economy. Here too one must guard against creating the mistaken impression of wanting to establish an official Commission or European Parliament television channel. Such a solution would conflict with the individuality of both European culture and of the media which, when they are government-run are always stultified and therefore require a free rein allowing them to reflect the whole range of opinion.

5. A European television programme could take two possible forms:
- either an independent European radio and television broadcasting company;
  - or a joint European channel which would be transmitted by the existing companies in the Member States via the fifth channel of their satellites, using the same picture but in the respective national language.
6. The idea of an autonomous European radio and television broadcasting company is supported by those who doubt the ability of existing television companies in the Member States to agree on a joint programme and to give such a programme a European character. Only an autonomous and independent company would be able to free itself from national influence and permit the development of a channel covering the European Community. Furthermore, television journalists with a European outlook will only emerge when a real European role has been defined for them. The European company could be based in Luxembourg

and a transitional solution might possibly be an arrangement with Radio Luxembourg, which could lease transmission time or one of its future satellite channels to the European channel.

However, the difficulties involved in setting up such an autonomous company are considerable:

- an extensive, independent organization would have to be created, requiring channel management staff and a highly qualified team of technicians and journalists in addition to the technical installations;
- the costs would have to be covered either by the budget of the European Communities or by advertising. since there would be no revenue from television licences and the existing networks would hardly be willing to contribute to the financing of an autonomous company from their own resources. Both the allocation of Community budgetary resources and financing through advertising raise virtually insurmountable problems;
- further difficulties arise from the legal point of view: the Geneva broadcasting conference of 1977 tried to establish the responsibilities of the existing companies at that time in a form which would be legally binding for at least ten years. Although this situation will soon be overtaken by technical developments, the Geneva decision would effectively block any early reorganization designed to set up an autonomous European television company transmitting its programmes throughout the European Community. The legal status of such a company is a further question which would have to be settled. In view of the varying legal forms used in the Member States in this field, it would not be easy to decide on a legal status acceptable to all the parties. A state treaty, signed by all the participating governments would probably be necessary;
- from the political point of view, the conflicting interpretations of the Treaties of Rome would act as a brake on any rapid union.

All these factors point to the conclusion that the setting-up of an autonomous European television broadcasting company is not very realistic.

7. However, the creation of a joint European channel transmitted by the existing television companies via the fifth channel that will in future be available to the Member States on their satellites, must be seen as a realistic option.
  - (a) The existence of Eurovision provides a solid basis for such a development. With its top management in Geneva, its technical centre in Brussels and its extensive European cable network, Eurovision has for

some time ensured and implemented daily exchanges between the European radio and television broadcasting companies. All European radio and television broadcasting authorities belonging to the European Broadcasting Union are linked up to Eurovision. In addition, its members include most of the Mediterranean countries. The limitation of Eurovision's services lies in that it acts purely as an 'exchange' exercising no influence on the programmes of its member companies, which merely select programmes from those made available by Eurovision. In addition, Eurovision transmits programmes to the receiving authorities via their cables and television networks. The cooperation between European radio and television broadcasting companies which exists in Eurovision is an important precondition for the joint European channel.

- (b) The idea of creating a European television channel has obviously occurred to many European television companies as a result of the emerging technical development of satellite television. As mentioned above, a conference of the European Broadcasting Union was held in Venice in November 1980, presided over by the chairman of the 'News' working party, Mr Boni, with the objective of developing a joint European television channel by satellite.

Radio Luxembourg is planning a three-language (French, German, Dutch) television channel via satellite as from 1985, which is to be launched with the participation of the German Association of Newspaper Publishers. A decision on the project is to be taken this summer. The German broadcasting authority, Italian television and the BBC also decided on greater cooperation at European level at a conference in Messina. In this case, the authorities are thinking in terms of a radio programme entitled 'Europe 31' to be transmitted once a month. Similarly, Südwestfunk and Westdeutsche Rundfunk in the Federal Republic of Germany regularly broadcast European programmes on radio and television. By far the most advanced plans are the detailed proposals published on 19.3.1981 by ZDF, the second German television channel, for the creation of a European channel to be transmitted on the fifth channel of the future German satellite as from 1986. This survey is not exhaustive but it does show that television experts and their institutions not only believe that the time is ripe for European television but have also taken the first steps towards its realization.

- (c) The ZDF proposals merit particular attention. They are based on the principle that a joint European channel, much less a European television company, will not be achieved overnight in view of the legal, political and financial problems. The ZDF has therefore adopted a pragmatic approach; it is asking for the exclusive right to use the fifth channel of the future German satellite and initially plans to start producing a European programme in 1986. At the same time it will

invite the other European television companies to participate in the new channel by exchanging and cooperating on programmes or even by transmitting the jointly produced programmes in addition to their own, thus arriving at a European television channel for all the Member States.

To sum up, it can be seen that a wide variety of interests and plans are involved and that the future development of the media in Europe is therefore still an open question.

8. In these circumstances and given the importance of information and particularly television for modern democratic society, the European Community must step in and take the initiative.

- the European institutions must participate actively in designing the media of the future, defining objectives and drawing up guidelines. A joint European television channel will give further cohesion to the European Community, uniting the citizens of Europe, and provide it with a medium which, even if it is not managed by the Community itself, by its very existence will increase the feeling of solidarity among Europeans. The European Parliament should therefore call on the Commission to draw up, within six months a report on the media, based on the guidelines set out in this report.

This report on the media should contain in particular information on the following:

- a. the legislation relating to the media in the Member States,
- b. the legal basis for action by the Community in this field,
- c. the matters in respect of which provisions should be laid down,
- d. whether a convention on the media drawn up within the Council of Europe is advisable and, if appropriate, what form it should take, and
- e. the legal requirements and practical facilities for the creation of a European television channel.

- The most important demand to be made for realization of a European television channel, is that the fifth channel of the satellites of the Member States should be made available for the European programme. Only the larger countries will be able to launch their own satellites, but these will be sufficient to ensure that the European programme can be transmitted to all the Member States. The majority of countries, will have no problem making the fifth channel available since in any case they do not know to whom or for what it should be allocated. An additional programme with a European style will be a meaningful extension of the existing national programmes. There should therefore be a political decision on the use of the fifth channel.

- On the technical aspects of the project, the ZDF report makes the following comments: 'Provided that there was a desire to create a European channel which could persuade each of the national governments to make one of their five satellite channels available for a European channel, it would be essential for the programmes to be produced by a European broadcasting authority and distributed by it via conventional transmission lines (earth circuits or ECS) to the ground broadcasting stations in the individual countries which supply the national broadcasting satellites. The supply of programmes to this European transmission network would also be carried out via conventional lines.

This model also provides for intermediate solutions. If, for instance, not all the interested countries had access to a broadcasting satellite at the same time and only want to link up at a later stage, they could begin by capturing programmes from the European transmission system on conventional lines and transmitting them from their ground networks.

- The planning of a definitive system requires cooperation between the institutions of the European Community and the radio and television broadcasting authorities working together in partnership. The nature of the European television channel and the European radio and television broadcasting outline rules binding on national, public and private bodies must be the result of joint reflections in which the European Parliament should play a significant role. The European Community should start appropriate negotiations with the authorities responsible for the media.
- The model of a European television channel, transmitted jointly by the national broadcasting companies, has the attraction of being relatively easy to achieve: it requires no investment to set up an autonomous company. The additional expenditure involved in creating a European department and news office within the existing companies could largely be borne by the latter, leaving only the negligible cost of the central administrative and editorial organization.

No insurmountable difficulties should arise at legal or political level either, since the project involves only closer cooperation between existing companies which already work closely together in Eurovision and of these only those who are willing to be involved. The willingness of the companies to participate will depend greatly on the vote taken in the European Parliament and on the attitudes of the respective governments.

- The first step towards being able to participate in the new European channel, and in the existing national channels, is the extension of the European Parliament's television studio. The technical equipment has already been selected and will be delivered shortly. The appointment of staff should be such as to enable the studio itself to produce short television films on subjects relevant to Europe. These could then be offered to the European broadcasting companies via Eurovision.

9. At this point the inevitable question arises whether there can be such a thing as a specifically European television channel and what form it should take.

(a) The following basic principles should be respected:

- An additional European channel must provide a full range of programmes such as those transmitted by the national broadcasting companies. It will not be possible to win over viewers by showing only reports on or broadcasts from the European Community and the European Parliament. Neither should it be an official European channel produced on behalf of the European institutions. On the contrary, it should express a wide range of political opinions and social and cultural attitudes so as to reflect the rich variety of life in Europe. It is the very diversity of Europe which should be conveyed. Consequently all the Member States and regions must contribute to the channel.
- The picture should be the same everywhere, but the language adapted to each receiver area. It would be desirable and technically feasible in the future for the viewer to be able to select whether he wishes to see a programme in his own language or in the original language.
- The criterion of a full range of programmes means that the channel should fulfil the functions of entertainment, information and education. The channel could derive a European character from its origins, subject matter and target audience. European in origin means that as far as possible journalists, film directors, artists, etc. from all the European Member States should participate in the production of programmes. Private producers could also be brought in. The subject matter will be European in that the channel will reflect the European scene, deal with problems affecting all Europeans or provide opportunities for intra-European cultural exchanges. The target audience would be the same as for the national channels except that it would include viewers in other countries.

(b) The experts of the ZDF have given a convincing presentation of how a European television channel might look in detail and their proposals are quoted below:

'The following types of programmes could be presented from a European angle :

- news bulletins: these should present world news in the traditional sense and, in addition, one news bulletin could present the day's events from a European viewpoint;
- a European magazine programme: such a programme could present the European problems which are of particular concern to the man in the street, either on film or live. The emphasis in such a magazine programme would therefore be the human dimension in Europe;

- feature films, current affairs reporting or historical documentaries: priority should be given to exchanges of programmes between countries. The contributions should increase understanding of internal developments in the countries of Europe and of European interdependence;
- live reports from the European Parliament and Council of Ministers: there could be live link-ups with several foreign broadcasting companies;
- language teaching;
- cultural programmes: cultural programmes from the whole of Europe could be shown - something which rarely occurs in the television time currently available. This would mean that more existing European programmes could be shown in German versions and would also serve to encourage a further development, namely co-productions bringing the television systems and the viewers into contact with the whole of Europe in this type of co-production, for example, the French could report on Krakow, the British on Estremadura and the Dutch from Transylvania;
- programmes on travel and foreign countries;
- educational and scientific programmes;
- programmes for the children of immigrant workers: there are many immigrant workers from European countries living in the Federal Republic of Germany and the question is being raised increasingly why no children's programmes are broadcast for these groups. The European channel could make this possible;
- entertainment: this would primarily mean the extension of the different types of shows presenting songs and European games and quiz programmes;
- music and theatre: live transmissions of major cultural events throughout Europe (from theatres, opera houses, etc.);
- sport: an additional European channel would extend facilities for more live coverage of sporting events;
- live transmission from European centres: on a European channel it would be possible to devote a whole day's transmission time to a programme of outside broadcasting from one place, incorporating news, entertainment and sport.



18 September 1980

ANNEX I

MOTION FOR A RESOLUTION (DOCUMENT 1-409/809 )

tabled by

Mr PEDINI, Mr HAHN, Mr FISCHBACH, Mr VERGEER, Mr Ingo FRIEDRICH, Mr SCHALL, Mr BERSANI, Mr BOCKLET, Mr ADONNINO, Mr SASSANO, Mr DIANA, Mr d'ORMESSON, Mr ALBER, Mr McCARTIN, Mr LUSTER, Mr AIGNER, Mr FRÜH, Mr von WOGAU, Mrs RABBETHGE, Mr JONKER, Mr TOLMAN, Mrs SCHLEICHER, Mr LANGES, Mrs LENZ, Mr MERTENS, Mr MAJONIKA, Mr WAWRZIK, Mr BROK, Mr MÜLLER-HERMANN, Mr RINSCHKE, Mr Konrad SCHON, Mr GOPPEL, Mr FUCHS, Mr HELMS, Mr PFENNIG, Mr ESTGEN, Mr KATZER, Mr SÄLZER, Mr HERMAN

pursuant to Rule 25 of the Rules of Procedure on radio and television broadcasting in the European Community

The European Parliament,

- convinced of the need for all citizens of the Member States to receive authentic information on Community policy and thus to be given a share in the political responsibility,
  - whereas adequate and expert information is essential to the development of a sense of common responsibility and willingness to take joint political action,
  - whereas radio and television are today the media which play a decisive role in informing and shaping public opinion,
  - whereas new technology may be expected to lead in the years ahead to the introduction of transmission by satellite, thus vastly increasing broadcasting capacity with the aid of additional channels and making it possible to reach all regions of Europe,
  - whereas reporting of European Community problems by national radio and television companies and the press have been inadequate, in particular as regards coverage of integration, relations with third countries, especially the developing countries, but also as regards information on individual 'Member States' internal political, social and economic problems,
1. Calls for the establishment of a European radio and television company with its own channel;
  2. Calls for the formation of a special group to consider the political, material, technical and financial requirements for setting up such a company;
  3. Envisages that this channel will cover politics, education, cultural information, entertainment, and also advertising to provide finance, with multilingual broadcasting;

4. Expects that equal weight will be given to all regions of the European Community to increase the mutual understanding among the Europeans;
5. Recommends that the essence of European culture, namely diversity in unity, be reflected in the range of views expressed;
6. Proposes that broadcasting companies in Member States contribute to the Community channel under a quota system for transmissions, with coordination by a European programme management;
7. Instructs the Directorate-General for Information and Public Relations to submit proposals on this matter to Parliament.

19 September 1980

MOTION FOR A RESOLUTION (DOCUMENT 1-422/80)

tabled by Mr SCHINZEL, Mr GABERT, Mr VAN MINNEN, Mr LINKOHR,  
Mr WALTER, Mr Gerhard SCHMID, Mrs WIECZOREK-ZEUL, Mr RUFFOLO,  
Mr PULETTI, Mr SCHWENCKE, Mr WOLTJER, Mr CABORN, Mr SEELER,  
Mrs WEBER, Mrs SEIBEL-EMMERLING, Mr WETTIG, Mr SCHIELER, Mrs HOFF,  
Mr HÄNSCH, Mr WAGNER, Mr PETERS, Mr LINDE, Mrs FUILLET, Mr J. MOREAU,  
Mr GLINNE, Mr ESTIER, Mr BOYES, Mr DIDO', Mr PELIKAN, Mrs LIZIN,  
Mrs SALISCH, Mr ADAM, Mr GRIFFITHS, Miss QUIN, Mr SEEFELD, Mr RADOUX,  
Mr COLLA and Mr FERRI

pursuant to Rule 25 of the Rules of Procedure

on the threat to diversity of opinion posed by the commercialization  
of new media

The European Parliament,

- aware of the great importance of the new media in shaping the future,  
e.g. through satellite television, communication by cable, etc.,
- deeply concerned at the massive efforts being made to introduce new  
media for commercial use,
- having regard to the consequent risk of greater commercialization of  
all the media and the associated threat to the freedom of information  
and to our democracies,
- wishing to promote the exchange of information,
- having regard to the 1978 UNESCO resolution which recognizes each  
country's right to national identity specifically in matters of media  
policy,
- in the knowledge that Luxembourg and Switzerland intend to broadcast by  
satellite special television commercials directed at neighbouring  
countries,
- having regard to the decision by the European Court of Justice that the  
restriction of commercial broadcasting is compatible with the EEC Treaty  
if it is imposed on the grounds that it is in the public interest,
- wishing to prevent programmes being reduced to a vehicle for advertising,
- conscious that public radio and television companies, such as those  
existing in the Federal Republic of Germany, form an important part of the  
democratic community,

- conscious that radio and television broadcasting across frontiers for commercial purposes represents a major threat to the press in our Member States,

1. Asks the Commission and the Council to submit without delay a report on the situation and the development of the media in the Community (media report);
2. Calls upon the Commission and the Council to take appropriate steps, in the light of the two rulings of the Court of Justice concerning cable television in Belgium, in respect of all the Member States with a view to shaping the future structure of the media and
3. To reject any transfrontier measures which endanger public or other similar, independently organized, radio and television broadcasting companies such as those in the Federal Republic of Germany and the Netherlands, and
4. To submit to the European Parliament a proposal for European rules on radio and television broadcasting based on consultations with consumers, consumer organizations (trade unions, associations, etc.) and existing companies. These rules should also ensure that the 'new media' help citizens to take a more active part in the information process, enhance their powers of judgment and develop their social potential. The aim must be to ensure diversity in the choice of programmes, but also to avoid economic power structures;
5. Instructs its President to forward this resolution to the Council, the Commission, the Governments of the Member States and UNESCO.

## Opinion of the Political Affairs Committee

Draftsman: Mr VAN MINNEN

On 11 September 1981, the Political Affairs Committee was requested to submit an opinion to the Committee on Youth, Culture, Education, Information and Sport on radio and television broadcasting in the European Community (motion for a resolution, Doc. 1-409/80).

At its meeting of 28 October 1981 the Political Affairs Committee appointed Mr van Minnen draftsman.

It unanimously adopted this opinion at its meeting of 27 - 29 January 1982.

Present: Mr Haagerup, acting chairman; Mr van Minnen, draftsman; Mr Berkhouwer, Mr Beyer de Ryke (deputizing for Mr Bettiza), Mr Bocklet (deputizing for Mr Klepsch), Mr Bournias, Mr Cariglia, Mr Deschamps, Lord Douro, Mr Ephremidis, Mr Habsburg, Mr von Hassel, Mrs van den Heuvel, Mr Kirkos (deputizing for Mr Marchais), Mrs Lenz, Mrs Lizin (deputizing for Mr van Miert), Mr Majonica (deputizing for Mr Schall), Mr Moorhouse (deputizing for Sir James Scott-Hopkins), Mr Pelikan (deputizing for Mr Zagari), Mr Prag (deputizing for Lady Elles), Mr Radoux (deputizing for Mr Jaquet), Mr Segre, Mr Sherlock (deputizing for Lord Bethell) and Mr J.M. Taylor.

1. There is no provision for media policy in the Treaties of Rome. Since the war this field has been covered rather by the Council of Europe, whose most recent activity was a report drawn up in October 1981 by Mr Piet Stoffelen which called for the safeguarding of the artistic independence of programme-makers vis-à-vis the state and commercial interests, the protection of copyright and royalties and the establishment of an acceptable code of conduct for broadcasting organizations and a new European Broadcasting Convention.

2. The 1965 European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories was also a matter which was arranged completely outside the sphere of activities of the European Community. However, in view of the number of questions, initiatives and motions for resolutions that have cropped up recently in the European Parliament, it has now become inevitable that we should turn our attention more closely to this matter. The judgment whereby the European Court of Justice in Luxembourg (DEBAUVE Judgment 52/79) placed legal limitations on the broadcasting of Radio-Télé-Luxembourg's programmes through the Belgian cable network and recognized the national organization of the media, unquestionably goes far beyond the jurisdiction of the Community. Satellites, which are proliferating even faster than the resolutions of our Parliament, have direct consequences for Community law and Community policy.

3. Two motions for resolutions are currently up for discussion within the European Parliament. The motion for a resolution tabled on 18 September 1980 by Mr PEDINI, Mr HAHN, Mr FISCHBACH and others (Doc. 1-409/80) called for the establishment of a European radio and television company with its own channel. The motion tabled a day later, on 19 September 1980, by Mr SCHINZEL, Mr GABERT, Mr van MINNEN and others (Doc. 1-422/80) called, on the other hand, for international regulations to protect the diversity of opinion and to check the commercial exploitation of the new media. The draft report (PE 73.271) drawn up by Mr HAHN on behalf of the Committee on Youth, Culture, Education, Information and Sport concludes by calling upon Member States to make the fifth channels of the national broadcasting satellites put into orbit in the coming years available for a special European channel and calls upon the Commission to submit a full report on the media to the European Parliament by the middle of next year.

B. SOME GENERAL POINTS, RECOMMENDATIONS AND CONCLUSIONS IN RESPECT OF  
BROADCASTING POLICY

4. Cable television, which grew up out of the central antenna system, signifies primarily that the distribution network has become wider and more sophisticated. The obvious advantages of this have been the distinct technical improvement in reception and the environmental benefit from the disappearance of the forest of TV aerials that sprung up in the first years after the Second World War.

Satellite television, on the other hand, is becoming directly and primarily a matter for the broadcasting companies, both old and new, with, in addition to distribution by cable, new specific aerial facilities for the individual receiver, though fortunately the dish can lie flat on the roof. Satellite reception therefore lends itself much less easily to central adjustment - such adjustment must begin at the source, with the satellite broadcaster and the relevant satellite broadcasting companies.

5. It is a striking fact that with the greater technical possibilities and the wide variety that the satellite age promises to bring us, attention has so far been directed almost exclusively at visual reception, i.e. television, and that the equally enormous increase in reception potential in the audio sector, i.e. radio, is being overlooked.

The Political Affairs Committee, however, would emphatically draw attention to the at least equally important qualitative and quantitative opportunities for radio because unprecedented prospects are now being opened up in this field both for (musical) culture and the dissemination of information. It follows, of course, that the dangers inherent in satellite television also apply to satellite radio.

6. In the eighties and nineties, therefore, broadcasting will be faced with extremely far-reaching technological developments and consequently equally far-reaching social developments. With the advent and development of the technological infrastructure broadcasting time will become less scarce, in fact it will become practically unlimited and if we are not careful it will become virtually an article of merchandise in the framework of the Common Market.

Those Member States, such as the Netherlands, which are still encased in a closed broadcasting system of broadcasting companies consisting of members and supporters, will not escape the breaking-open of this circuit. The same applies to Member States such as the United Kingdom and West Germany where the excellent state broadcasting stations will come under even heavier pressure. But if the state control is threatened this does not necessarily mean that television as such is also threatened!

7. Although one may regret the advent of such an open structure, it would, in the view of the Political Affairs Committee, be incompatible with the freedom of information exchange to pursue a protectionist policy in this field. Freedom of information exchange is laid down in Article 10 of the 1950 European Convention on Human Rights and Fundamental Freedoms which states: 'everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers'.

8. This open information market must not mean that satellite broadcasts should be allowed to flood the Community in unlimited quantities as though they were a commercial product. The Political Affairs Committee is equally concerned about the threat to the diversity of opinion to which commercialization both within the Community itself and in third countries could lead. It takes the view that the maintenance of public order is as important to the Member States, in protecting their own fundamental rights and preserving their cultural and political identity, as the principle of a free flow of information. Unrestricted cross-border commercialization is dangerous, just as to ban certain broadcasts would run counter to the principle of free access to information. It is therefore necessary to formulate framework Community provisions on radio and television broadcasting satellites in order to preclude this danger.

9. It will be very difficult for certain Member States to accept foreign satellites covering their territory and language area with programmes larded with advertisements. It would be totally unacceptable if the broadcasts consisted mainly of advertisements interspersed with the occasional programme. This could be prevented only by creating tight and harmonized Community legislation on broadcasting laying down arrangements for advertising for satellites used for broadcasting.

The Political Affairs Committee gives its preference to a system such as is used in the Dutch STER advertising company or in West German broadcasting, i.e. advertising spots at fixed times between programmes which do not interrupt broadcasts. This is the only way of guaranteeing the integrity of the media and preventing a situation from arising in which information is exploited as an economic commodity.

To ban advertising on satellite-broadcasts would be as unrealistic and perverse as to forbid advertisements in newspapers; the British ITV authority is evidence of the fact that a broadcasting organization run on commercial lines can very well hold its own, in terms of quality, with a state-run broadcasting organization. Freedom of expression, however, cannot be the prerogative of the highest bidder and the Commission must therefore draw up a directive ensuring that commercial interests are channelled into a direction acceptable to the Community and made subject to certain conditions.



There is an urgent need for agreement to be reached at Community level to prevent the commercial jungle taking over the rapidly expanding field of technology and the Commission should, in the view of the Political Affairs Committee, anticipate possible technical developments with an appropriate directive. A European outline regulation should embody the structural guarantees necessary for independence without which a European broadcasting war will inevitably break out which may destroy the cultural values of our Community.

10. This implies that the Political Affairs Committee, together with the Committee on youth, Culture, Education, Information and Sport, should urge the Commission very strongly to submit to Parliament a media report comprising policy proposals within six months. Time is very short because the various Member States will undoubtedly take action which will make Community rules virtually impossible. At the same time such emergency national measures would make the chaos even worse because media policy can simply no longer be kept within a national framework.

11. The Geneva broadcasting conference in 1977 granted all states, regardless of their size, the right to put into orbit a satellite with a maximum of five television channels and an unlimited number of radio stations. Although a short time ago it was still assumed that another ten years would be needed, the advent of both satellite television and satellite radio is now imminent. And as any one can now buy a dish aerial immediately for no more than 600 European units of account there is also, apart from the cable network, scarcely any question of financial hindrance in the rush to the new world.

In fact there are billions available to this European information market. The technological miracle cannot be stopped. But it can be directed. The satellite television phenomenon does not need to create panic. It may in fact provide the stimulus for a change of orientation. Technology in itself is not necessarily a threat to anything or anyone, provided that it is adapted to suit developments in our cultural life. At the same time, it implies a new direction on a smaller scale, that of simultaneously international and regional programming ('Euregionalization').

12. Finally, a special European 'television channel', as proposed by Mr Hahn and recently tested by the Dutch VPRO in a number of EUROKA trial broadcasts, raises its own problems. Close cooperation with the EBU and Eurovision would be necessary, and only the EBU and Eurovision could run a European television programme. The Community should not set itself up as a broadcasting organization. It should at most provide technical facilities; in this connection Parliament could set a good example by setting up appropriate television studios, hopefully without falling prey to the illusion that self-made 'film material on the activities of the European Community' will contribute to restoring the image of Parliament.

A European channel is desirable only if it offers sufficient variety, adequate guarantees of independence, if it is produced by independent and critical editorial staff from outside and if it covers far more ground than the narrow rituals of the Community.

Reporting on Europe would not be well served by an uncritical appendage of the majority of this Parliament. On the contrary, it must consist of the widest and fullest possible exchange of ideas and opinions. Here again we must proceed from the assumption that broadcasts should be free of any outside influence.

## Opinion of the Legal Affairs Committee

Draftsman: Mr SIEGLERSCHMIDT

On 19 September 1980 the motion for a resolution (Doc. 1-422/80) tabled by Mr Schinzel and others on the threat to diversity of opinion posed by the commercialization of new media was referred to the Committee on Youth, Culture, Education, Information and Sport as the committee responsible and to the Legal Affairs Committee for its opinion.

On 26 November 1980 the Legal Affairs Committee appointed Mr Sieglerschmidt draftsman.

Also on 19 September 1980 the motion for a resolution (Doc. 1-409/80) tabled by Mr Pedini and others on radio and television broadcasting in the European Community was referred to the Committee on Youth, Culture, Education, Information and Sport as the committee responsible.

On 25 May 1981 this motion for a resolution was also referred to the Legal Affairs Committee for its opinion.

At its meeting of 26 June 1981 the Legal Affairs Committee appointed Mr Sieglerschmidt draftsman of an opinion on the motion for a resolution as well, and decided to consider the two motions together.

The draft opinion was considered by the Legal Affairs Committee at its meetings of 22/23 September and 26/27 October 1981 and adopted at the latter meeting.

Present: Mr Ferri, chairman; Mr Luster, Mr Turner and Mr Chambeiron, vice-chairmen; Mr Sieglerschmidt, draftsman; Mr Dalziel, Mr Goppel, Mr Janssen van Raay, Mrs Macciocchi, Mr Megahy, Mrs Théobald-Paoli, Mr Tyrrell and Mr Vardakas (deputizing for Mr Gondikas).

## I. Introduction

1. Technical developments in the field of the electronic mass media increasingly offer radio and television new opportunities some of which are already being used or are under preparation for use. Cable television and satellite transmission make it possible to broadcast complete transfrontier programmes which reach large areas of the earth's surface. This new situation in which we find ourselves gives us the chance of improving communications between millions of people. In this respect the statement made in the motion for a resolution by the Committee on Youth, Culture, Education, Information and Sport should be emphasized: 'whereas radio and television are today the chief media for informing and shaping public opinion'. On the other hand, however, the developments which have been mentioned also give rise to problems which make transfrontier legislation necessary. The UNESCO Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchanges of 1972, the Radio Regulation of the World Administrative Radio Conference of 1977 and two relevant decisions of the Court of Justice of the European Communities in Cases 52/79 and 62/79 of 18 March 1980 confirm the fact that there are problems in this respect which need to be settled.

2. In the motion for a resolution on radio and television broadcasting in the European Community tabled by Mr Pedini and others on 18 September 1980 (Doc. 1-409/80) proposals are put forward for the improvement of communications within the European Community, involving essentially a request for 'the establishment of a European radio and television company'. The motion for a resolution on the threat to diversity of opinion posed by the commercialization of new media tabled by Mr Schinzel and others on 19 September 1980 (Doc. 1-422/80) is, on the other hand, concerned with the transfrontier provisions which are necessary in the opinion of those tabling the motion. The Committee on Youth, Culture, Education, Information and Sport has correctly recognized that the questions broached in both motions must be dealt with in a report on radio and television broadcasting in the European Community because they are inter-connected. Reference should be made in this respect to point 7 of the draft motion for a resolution<sup>1</sup> in which the drawing up of 'outline rules ... on European radio and television broadcasting' is considered to be necessary.

Even taking into consideration the fact that it will be for the Legal Affairs Committee in particular to consider what provisions are required and may be adopted in relation to problems of media policy at the European level, the comments made on this in the explanatory statement accompanying the draft report seem to be very short. The Legal

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<sup>1</sup> See draft report PE 73.271 drawn up by Mr HAHN on behalf of the Committee on Youth, Culture, Education, Information and Support.

affairs Committee would however like to leave it essentially to the Committee on Youth, Culture, Education, Information and Sport to decide how far it wishes to use the considerations set out below in the explanatory statement accompanying the draft motion for a resolution.

3. Finally, care should be taken that the principal expressions used in the report have the same meaning in all Community languages. Thus for example the word 'Hörfunk' (radio) in German means the transmission of sound, mainly the spoken word, whilst the word 'Fernsehen' (television) means the transmission of sound and pictures. The generic term for both is the word 'Rundfunk' (broadcasting).<sup>1</sup>

## II. Legal basis of Community action

4. It is necessary first of all to consider whether the provisions laid down by law, regulation or administrative action in Member States in the field of radio and television directly affect the functioning of the common market within the meaning of Article 100 of the EEC Treaty. In this connection the Court of Justice of the European Communities took the view (for example in Case 19/77, Miller v Commission [1978] ECR 131) that it is not necessary to show that provisions which have been laid by law or regulation and which require harmonization in fact affect the functioning of the common market but merely to establish that they are capable of having that effect; what is decisive is that such influence is probable on the basis of a number of objective elements of fact or of law.

The considerable differences between the national legislation of the various States on the media might have a direct effect in this sense and create distortions of competition. A distortion of competition might for example arise if there are differences as regards both quality and quantity in the ways in which business undertakings can employ advertising in the media as a basic instrument of their commercial policy according to the legislation on the media of the Member State in which they operate. The existing differences between countries which allow only public corporations to broadcast radio and television programmes and those which entrust the broadcasting of such programmes to private undertakings enable considerably more advertising to be broadcast in the latter countries; this may be used by interested parties in a strong financial position. As shown by experience in the United States of America, these differences are expected to increase still further if television satellites are employed in the Member States under the varying legal requirements mentioned above. Community legislation on the media would be possible on the basis of Article 100 of the EEC Treaty, in other words within the context

<sup>1</sup> On this point the European Broadcasting Union (EBU) has drawn the draftsman's attention to the following table of equivalents:

German	English	French
Rundfunk	broadcasting	radiodiffusion
Hörfunk	sound broadcasting	radiodiffusion sonore
Fernsehrundfunk	television broadcasting	radiodiffusion télé-
		visuelle
Fernsehen	television	télévision

of the power contained in Article 3(h) of the EEC Treaty which makes the 'approximation of the laws of Member States to the extent required for the proper functioning of the common market' a task of the Community. Community legislation on the media would however have to go beyond this if it were not to be incomplete. It could not merely prevent distortions of competition, regulate the freedom to provide services in this field and lay down provisions for the protection of consumers or the guarantee of copyright. It would also have to contain at the least provisions to ensure that a variety of opinions, information and cultures are expressed and provisions for the protection of youth. Although the concept of the common market is not expressly defined in the EEC Treaty, there can be no serious doubts that provisions of that kind are not designed to bring the common market into effect. For this reason Article 100 of the EEC Treaty cannot be envisaged as the legal basis for Community provisions relating to the law on the media.

5. On the other hand it might be possible to adopt such provisions under Article 235 of the EEC Treaty. The general power contained in this article, which is based on the attainment of the objectives of the Community, allows more scope than Article 100 of the EEC Treaty. The Legal Affairs Committee has in the past repeatedly requested that the Commission make fuller use of the powers given to it under Article 235 of the EEC Treaty. This attitude is in line with point 15 of the Final Communiqué issued at the Summit Conference of the European Communities in Paris in 1972. The Heads of State or of Government agreed in thinking that 'for the purposes in particular of carrying out the tasks laid down in the different programmes of action, it was desirable to make the widest possible use of all the dispositions of the Treaties, including Article 235 of the EEC Treaty'.

The Legal Affairs Committee supported this policy, for example in the reports on:

- the protection of fundamental rights of citizens (Doc. 297/72)
- the primacy of Community law and the protection of fundamental rights (Doc. 390/75)
- the special rights of citizens (Doc. 346/77)
- the relationship between Community law and criminal law (Doc. 531/76).

Article 235 of the EEC Treaty is increasingly being used to this effect as the basis for measures adopted in connection with policies for which only incomplete provision is made in the Treaty and which are known as 'marginal' policies. However, unlike the protection of the environment or regional policy, no provision at all is made in the Treaties of Rome as regards policy relating to the media.

Even when the 'implied powers' theory is presumed to apply a predetermined outline would first of all be necessary, for example by means of a 'programme of action'; the Parliament should request this.

6. The view of the European Parliament put forward emphatically at an earlier date is in favour of such a programme of action on European media policy: it was stated in that resolution that a European Community must also above all regard itself as a communications Community as it is 'determined to lay the foundations of an ever closer union among the peoples of Europe'. Accordingly a framework for the transfrontier activities of the mass media and their new technology should also be established by means of Community legislation on the media.

In addition to this the Member States of the European Community have always accepted the political principle of the free flow of information and opinions in all international agreements. The Member States, and the Community too, have created for themselves a binding precedent by their actions taken on the basis of this political principle, for example in so far as they acted jointly within the context of the Conference on Security and Cooperation in Europe. In this respect a duty to act in accordance with legal policy within the framework of the European Community might also be created. The achievement of a free flow of information in relation to the mass media within the Community must not however endanger other rights protected in the member States. For example, the principle that a variety of opinions should be expressed and a variety of information provided and also the protection of individual rights should be borne in mind in this connection.

The free flow of information and the protection of related rights can only be achieved by joint action. The Parliament has already accepted this basic concept in its resolutions on data protection. For this reason the Community is requested to act in accordance with legal policy from this point of view as well.

### III. Transfrontier legislation in the field of radio and television broadcasting

7. The right to free access to information across frontiers is contained in Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. From the point of view of international law these provisions are binding to different degrees, and some of them are not binding at all. The latter applies in particular also to the Helsinki Final Act which contains a declaration of intent in relation to freedom of information in Part III, 2.

In both international instruments mentioned above which are relevant to

this field, the 1972 UNESCO Declaration and the 1977 Radio Regulation, the States of the Eastern Bloc succeeded in having certain restrictive provisions adopted. In view of this legal situation at the international level an attempt to glean legal guidance as regards Community legislation relating to the media or perhaps even a Council of Europe convention in this field seems pointless. Nor, for this reason, should these provisions be discussed in detail. This does not however apply to the decisions of the Court of Justice of the European Communities delivered in 1980.

8. In its decision in Case 52/79 (Debauve), the Court of Justice of the European Communities makes it clear that a restriction on the broadcasting of advertisements is compatible with the EEC Treaty if it is imposed on grounds of general interest and applies to all programmes in the same way regardless of the nationality or the location of the broadcasting company. It held that as long as the relevant provisions contained in the legislation of the Member States had not been harmonized, the individual Member States are in principle empowered to impose even a total ban on advertising. If, as in Belgium, a prohibition on all advertising is imposed on the national television organizations, parallel provisions may also be adopted as regards foreign advertising broadcasts transmitted by cable television as long as the provisions imposing the ban are applied to all programmes in the same way. This means that the broadcasting or transmission of advertisements by broadcasting organizations in other Member States may be restricted to the same extent as the broadcasting by national broadcasting stations is restricted.

In its judgment in Case 62/79 (Coditel v Ciné Vog Films), the Court of Justice of the European Communities ruled that in principle the Member States retain the power to lay down provisions relating to copyright. In principle, the right of the copyright owner to prohibit each fresh transmission or to authorize it on payment of a fee takes precedence over freedom to provide services. In particular, it is permissible to impose geographical restrictions on the right of transmission. These decisions make it clear, first of all, that the Court of Justice considers that harmonization of the relevant provisions is possible although not entirely desirable. Secondly, the Court establishes that, apart from the prohibition on discrimination, the provisions of the EEC Treaty relating to freedom to provide services do not limit the jurisdiction of the national legislatures to lay down provisions relating to the law on the new media and copyright.

National legislation on the media is of such vital importance to the protection of the cultural and political identity of the Member States that it may definitely be described as part of public policy. For this reason it may only be completed or replaced by Community legislation which has been approved by all Member States. A protest must therefore be made against the way in which the decisions of the Court of Justice mentioned above have been made light of, not to use a stronger word, in point 2(b) of the explanatory statement accompanying the draft motion for a resolution.



9. Community legislation on the media cannot be drafted solely in relation to radio and television broadcasting. The relationship between the electronic media on the one hand and the press on the other, as expressed in national legislation on the media, must not be disregarded in this connection. This applies particularly to the funds obtained by each medium from advertising. It is true that in the Member States newspapers and magazines are financed to a great extent by the advertisement sections (which account for approximately two-thirds of their revenue in the Federal Republic of Germany), but it would be wrong to equate them with radio and television in this respect. Newspapers and magazine subscribers may exert a considerable influence on the form of the contents of such newspapers by their choice of which to buy. They therefore at least have a say in the level of the political information and the way in which cultural values are conveyed in press publications. The radio and television ratings do not put radio and television audiences in such a good position.

10. Finally, it is also necessary to consider whether provisions relating to the law on the media seem to be called for within the scope of the Council of Europe rather than Community legislation on the media or to complete it. Several considerations point to a convention on the media within the Council of Europe. It would have the chance of becoming valid in a larger part of Europe even if probably not in all 21 Member States. As far as cooperation in matters relating to the law on the media is concerned, having regard to the new electronic media, not only the Member States of the Community are important but also, for example, a country such as Switzerland. On the other hand it would also be possible to bring into force a convention on the media within the context of the Council of Europe in a larger geographical area even if it were not ratified by all Member States of the Community. However, for the reasons given above an attempt should be made to create Community legislation on the media; a corresponding Council of Europe convention would complete such legislation appropriately. The Parliament should therefore request the Governments of the Member States to urge the creation of a convention; in this connection a considerable amount of preparatory work has already been done within the Council of Europe.

#### IV. Legal aspects of the creation of a European television channel

11. The Legal Affairs Committee stresses the objections put forward in paragraph 6 of the explanatory statement accompanying the draft motion for a resolution, particularly from a legal point of view, to the plans for a European television company. It might, perhaps, be attained by a legal measure pursuant to Article 235 of the EEC Treaty which, as already stated, would presuppose a programme of action on media policy. There are many indications that a treaty signed by the Member States would be necessary in order to set up such a company. Either course could require many years, perhaps a decade or more. For this reason a search should first be made for a means of transmitting European television programmes which may be put into effect more quickly.

12. It seems however doubtful whether it is possible to speak of a European television channel if, as foreseen in paragraph 7 of the explanatory statement accompanying the motion for a resolution, it will be transmitted in such a way that the television companies in the ten Member States have responsibility for programme planning and production and the companies concerned work in more or less loose collaboration. It is necessary to find a form which avoids the difficulties described in the draft report confronting the creation of a European television company and nevertheless enables programmes to be broadcast which may be described as having a truly European stamp.

It therefore seems necessary to examine whether it might not be possible to create a joint production unit from the television companies of the Member States which would be responsible for directing this channel in accordance with directives which would be given to the joint production unit by a group composed from the television companies of the Member States. This group would merely have the task of ensuring that the directives were complied with, whilst respecting the fact that the joint production unit had sole responsibility.

The joint production unit would have to be established from a legal point of view at the offices of the television company of one Member State. The staff of the production unit would be treated as the staff of the television company concerned but that company would not, however, have authority to issue instructions to the joint production unit. The funds to support the production unit as regards staff and equipment would have to be raised by apportioning the amounts to be contributed by the television companies concerned. These arrangements would avoid the difficulties connected with the creation of a new legal person as the employer of the staff of the joint production unit.

#### V. Report on the media by the Commission

13. The draft report and the comments made above show that the plan under discussion involves complex problems. For this reason it would be wrong for the Parliament to adopt resolutions in relation to this matter without being able to rely upon a fundamental inquiry covering all aspects of international legislation on policy in relation to the media. It is not the Parliament's task to carry out such extensive research, nor would it be in a position to do so. For this reason, the Commission should be requested to submit by the middle of next year a report on the media giving the Parliament the necessary assistance to enable it to reach a decision. In this respect the Legal Affairs Committee would refer to a request to this effect contained in paragraph 8 of the explanatory statement accompanying the draft motion for a resolution. It should however also be expressed in the resolution itself.

14. The report on the media should contain in particular information as to the following:

- (a) the legislation relating to the media in the Member States,
- (b) the legal basis for action by the Community in this field,
- (c) the matters in respect of which provisions should be laid down,
- (d) whether a convention on the media drawn up within the Council of Europe is advisable and, if appropriate, what form . should take and
- (e) the legal requirements and practical facilities for the creation of a European television channel.

#### VI. Conclusions

15. The Legal Affairs Committee recommends that the motion for a resolution by the Committee on Youth, Culture, Education, Information and Sport should be amended as follows:

(a) Paragraph 1 should read as follows:

'1. Calls on the Commission to submit by the middle of next year a report on the media giving assistance to the Community institutions in preparing the decisions to be taken by them in this field and containing in particular the information mentioned in paragraph 8 of the explanatory statement and, on the basis of this report, to create the political and legal basis for the realization of a European television channel.'

(b) In paragraph 7 the words 'inter alia' should be added after the words 'radio and television broadcasting' and the words 'and calls upon its Committee on Youth, Culture, Education, Information and Sport to submit proposals in this area' should be deleted.

16. In addition, the Legal Affairs Committee recommends that the draft explanatory statement should be amended as follows:

- (a) In paragraph 2(b) the last sentence beginning with the words 'This situation will not be affected ...' should be deleted.

(3) In the first indent of paragraph 8, the last sentence should be deleted. The last sentence but one, beginning with the words 'The European Parliament', should be worded as follows:

'The European Parliament should therefore call on the Commission to draw up, by the middle of the following year, a report on the media based on the guidelines set out in this report.'

A new indent should then be inserted to read as follows:

'This report on the media should contain in particular information on the following:

- a. the legislation relating to the media in the Member States,
- b. the legal basis for action by the Community in this field,
- c. the matters in respect of which provisions should be laid down,
- d. whether a convention on the media drawn up within the Council of Europe is advisable and, if appropriate, what form it should take, and
- e. the legal requirements and practical facilities for the creation of a European television channel.'